IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

CRL.A.No. 2028 of 2003()

---

AGAINST THE ORDER IN CRLP.576/2003 Dated 26/11/2003
CC.1059/2001 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA

.....

APPELLANT: COMPLAINANT:

---

SUKUMARAN,
KALEECKAL VEEDU, KARAZHMA EAST,
VALIAKULANGARA P.O., MAVELIKKARA.

BY ADV. SRI.VINCENT JOSEPH

RESPONDENTS: ACCUSED AND STATE:

---

1. ABDUL MAJEED, AGED ABOUT 50 YEARS,
S/O. ALIARUKUNJU, KAVUNKAL VEEDU,
MUTTOM MURI, CHEPPAD VILLAGE.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 19/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.R.UDAYABHANU, J.**

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Crl.A.No.2028 of 2003(D)

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Dated this the 19th day of September, 2007

**J U D G M E N T**

The appellant is the complainant in C.C.No.1059/2001 in the file of the Judicial Magistrate of the First Class, Mavelikara, with respect to the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(i) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned due to unavoidable circumstances.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 17/10/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

**K.R.UDAYABHANU,**
**Judge**

ms